

RULE 63 (37 C.F.R. 1.63)
DECLARATION
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "PROCESS FOR THE HETEROTROPHIC PRODUCTION OF MICROBIAL PRODUCTS WITH HIGH CONCENTRATIONS OF OMEGA-3 HIGHLY UNSATURATED FATTY ACIDS", the specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above, to the best of my ability. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 C.F.R. 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>	<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Priority Claimed</u>	<u>Yes</u>	<u>No</u>
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I hereby claim the benefit under 35 U.S.C. 120/365 of all United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 C.F.R. 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
07/241,410	9/7/88	Abandoned
07/439,093	11/17/89	Abandoned
07/580,778	9/11/90	Issued as U.S. Patent No. 5,130,242
07/911,760	7/10/92	Pending

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



DECLARATION
(CONTINUATION-IN-PART APPLICATION)

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name:

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "PROCESS FOR HETEROTROPHIC PRODUCTION OF MICROBIAL PRODUCTS WITH HIGH CONCENTRATIONS OF OMEGA-3 HIGHLY UNSATURATED FATTY ACIDS", the specification of which is attached hereto and filed concurrently herewith and identified as Attorney File No. 2391-1, and which, in part, discloses and claims subject matter disclosed in the earlier filed and pending United States Patent Applications Serial No. 07/439,093, filed November 17, 1989 and Serial No. 07/241,410, filed September 7, 1988.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a), material information being information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and as to subject matter of this application which is common to said earlier applications, I do not know and do not believe: that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application; or that the same was in public use or on sale in the United States of America more than one year prior to the effective date of this application; or that the common subject matter has been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any applications filed by us or our legal representatives or assigns more than one year prior to this application; or that an application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns except as follows: None.

I hereby claim the benefit under title 35, United States Code, §120 of prior pending United States Patent Applications Serial No. 07/439,093, filed November 17, 1989 and Serial No. 07/241,410, filed September 7, 1988, and insofar as the subject matter disclosed and claimed in this application is not disclosed in said prior application in the meaning provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information in accordance with Title 37, Code of Federal Regulations §1.56(a) which occurred between the filing date of the prior applications and the filing date of this continuation-in-part application, and further declare that I do not know and do not believe the same was ever known or used in the United States of American before our invention thereof or patented or described in any printed publication in any country before our invention thereof or more than one year prior to this application, that the same was in public use or on sale in the United States of America more than one year prior to this application, that the invention has been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any applications filed by me or my legal representatives or assigns more than one year prior to this application or that an application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by us or our legal representatives or assigns except as follows: None.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like os made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

WHEREFORE, I pray that Letters Patent be granted to me for the invention described and claimed in the foregoing application, and I hereby subscribe my name to the foregoing specification and claims and declaration.

lw

Full Name of Sole Inventor: William R. Barclay

Inventor's Signature: William R. Barclay

Date: 9-11-90

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Boulder CO County

Citizenship: United States

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:)
BARCLAY)
Serial No.:)
Filed: July 10, 1992)
Atty. File No.: 2391-1-2)
For: "PROCESS FOR THE HETER-)
OTROPHIC PRODUCTION OF)
MICROBIAL PRODUCTS WITH)
HIGH CONCENTRATIONS OF)
OMEGA-3 HIGHLY UNSAT-)
URATED FATTY ACIDS")

Group Art Unit:

Examiner:

DECLARATION OF
WILLIAM R. BARCLAY
(under 37 C.F.R. § 132)

"EXPRESS MAIL" MAILING LABEL NUMBER: FB 537868881
DATE OF DEPOSIT: July 10, 1992

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS
MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 C.F.R.
1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE
COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C.
20231.

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

TYPED OR PRINTED NAME: CONNIE LARSON

SIGNATURE: Connie Larson

Dear Sir:

I, William R. Barclay, declare as follows:

1. I graduated from St. Mary's College with a Bachelor of Science in Biology in 1971.

2. I graduated from the University of Wisconsin, Madison, with a Master of Science in Water Resource Management in 1974.

3. I graduated from the University of California, Davis, with a Doctor of Philosophy in Aquatic Ecology in 1981.

4. I was a Postgraduate Research Biologist with Scripps Institution of Oceanography at the University of California, San Diego, from 1981-1982 where I conducted research on the production of polysaccharides by soil algae and on controlling the bioflocculation potential of microalgae.

5. I was a Postdoctoral Fellow with Cooperative Institute for Research in Environmental Science at the University of Colorado, Boulder, from 1982-1983 where I conducted research on the production of polysaccharides, phenolics and organosulfur compounds by microalgae.

6. I was a Staff Scientist from 1983-1986 and a Senior Scientist from 1986-1987 with Solar Energy Research Institute,

Golden, Colorado, where I developed technology to produce liquid fuels from microalgae biomass.

7. I have been President and Director of Research for Phycotech, Inc. from 1987 to present, during which time I isolated and developed microbial strains for use in the production of omega-3 highly unsaturated fatty acids.

8. With respect to the amendment to the drawings in the Preliminary Amendment to this application, I verify that the newly substituted Figure 6 for the originally filed Figure 6 is a correct representation of the data with respect to the strain identified by ATCC Accession Number 20889 which was misplotted in originally filed Figure 6. Specifically, in the originally filed Figure 6 the bars representing total fatty acids and omega-3 highly unsaturated fatty acids were misplotted for ATCC Accession No. 20889. These particular bars were misplotted, because a graphics plotting program was used to generate Figure 6 and erroneous data was entered into the program.

9. I hereby declare that all statements made herein of my own are true and that all statements made on information or belief are believed to be true; and further that the statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application of any patent issuing thereon.

Date: 7/10/92

By: William R. Barclay
William R. Barclay